

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7689

ROBERT LEE FOSTER,

Petitioner - Appellant,

v.

CECILIA REYNOLDS, Warden,

Respondent - Appellee,

and

STATE OF SOUTH CAROLINA,

Respondent.

Appeal from the United States District Court for the District of
South Carolina, at Beaufort. Timothy M. Cain, District Judge.
(9:14-cv-03853-TMC)

Submitted: March 10, 2016

Decided: April 4, 2016

Before WILKINSON, KING, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Robert Lee Foster, Appellant Pro Se. Donald John Zelenka,
Senior Assistant Attorney General, Melody Jane Brown, Assistant
Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Lee Foster seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2254 (2012) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. See 28 U.S.C. § 2253(c)(1)(A) (2012). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2012).

When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85.

We have independently reviewed the record and conclude that Foster has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny his pending motion, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the

materials before this court and argument would not aid the decisional process.

DISMISSED